

Neifeld Docket No: PIP-69A-KATZ

Application/Patent No: 09/776,714

USPTO CONFIRMATION NO: 2896

File/Issue Date: 2/6/2001

Inventor/title: Katz/Method and System for Timing Promotions Based on Prior Receipt of Promotions

Examiner/ArtUnit: Alvarez/3622

Ex parte Gary M. Katz, Application No. 09/776,714

BPAI APPEAL NO: 2008-5179

BPAI FAX NUMBER: 571-273-0052

TO: CHIEF ADMINISTRATIVE PATENT JUDGE, BOARD OF APPEALS

**37 CFR 1.7(c) FILING RECEIPT AND TRANSMITTAL LETTER WITH
AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT**

1. **THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY FEES WHICH MAY BE REQUIRED, OR CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NUMBER 50-2106.**

2. **FEES PAID HEREWITH BY EFS CREDIT CARD SUBMISSION: \$0**

3. **THE FOLLOWING DOCUMENTS ARE SUBMITTED HEREWITH:**

NOTICE OF ACTIONS AFFECTING DOCKETED APPEAL PREVIOUSLY ORDERED BY
THE BPAI
AND STILL NOT PERFORMED BY THE EXAMINING CORPS

4. **FOR INTERNAL NEIFELD IP LAW, PC USE ONLY**

USPTO CHARGES: \$0 CLIENT BILLING MATTER: BANK ACCOUNT/Check: 6/ G/L ACCOUNT: 2500	FIRM CHARGES: \$0 DESCRIPTION: FIRM CHARGE FOR LAWYER: ran
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INITIALS OF PERSON WHO **ENTERED** ACCOUNTING DATA: RAN

ATTORNEY SIGNATURE (AUTHORIZING DEPOSIT ACCOUNT)

DATE: 8/25/2008

SIGNATURE: /RichardNeifeld/
Richard Neifeld, Reg. No. 35,299

Printed: August 25, 2008 (12:19pm)

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File/Issue Date: 2/6/2001

Inventor/title: Katz/Method and System for Timing Promotions Based on Prior Receipt of Promotions

Examiner/ArtUnit: Alvarez/3688

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BPAI APPEAL NO: 2008-5179

BPAI FAX NUMBER: 571-273-0052

TO: CHIEF ADMINISTRATIVE PATENT JUDGE, BOARD OF APPEALS

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The appeal cannot proceed on the current record at least because issues essential to the appeal, what claims are on appeal, remains undecided. In addition, the issue of whether the application is accorded special status remains undetermined.

The BPAI issued an order on 11/21/2205 in this application identifying two petitions for which decisions did not exist in the file, and deficiencies in the examiner's answer, and ORDERED the examining corps to correct those deficiencies.

The appellant has not received decisions on the two petitions. A review by the undersigned, today, of the undersigned's prosecution folder and incoming USPTO correspondence log shows no evidence that either petition was decided.

PETITION TO REINSTATE WITHDRAWN CLAIMS

The undersigned finds no evidence of a decision on the other petition regarding reinstatement of withdrawn claims.

PETITION TO MAKE SPECIAL

A review of attorney PAIR shows that a decision on a petition to make special was dated July 23, 2007, and addressed to the firm of Oblon SPivak. The decision indicates that a time to renew the petition ran out back on August of 2007.

A review of attorney pair "Address" tab shows:

Correspondence Address

Name: NEIFELD IP LAW, PC

Address: 4813-B EISENHOWER AVENUE

ALEXANDRIA VA 22304

Customer Number: 31518

A review of in attorney Pair of the IFW entry "08-05-2002 N570 Communication - Re: Power of Attorney (PTOL-308) " shows that the correspondence address of record for this application has been Neifeld IP Law, PC since 2002. Thus, the USPTO delivered the decision on the petition to make special to the wrong address.

SUGGESTED ACTION

The CAPJ should take appropriate action to require the examining corps to correct the errors noted above, for example by

(1) ordering the examining corps to re-issue the decision on the petition, with a current date, and to server the applicant with that decision, to make special so that the appellant has an opportunity to respond to the decision in that petition, and

(2) ordering the examining corps to issuing a decision on the petition to reinstate withdrawn claims.

8/25/2008

DATE

Respectfully Submitted,

/RichardNeifeld#35,299/

Richard A. Neifeld

Registration No. 35,299

Attorney of Record

ran

Printed: August 25, 2008 (12:19pm)

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